

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JULIE A. TOTH, an individual,

Plaintiff,

v.

**INA LIFE INSURANCE COMPANY OF
NEW YORK; PFIZER, INCORPORATED
GROUP LONG TERM DISABILITY
PLAN,**

Defendants/
Counter Claimants.

v.

JULIE A. TOTH, an individual,

Counter Defendant.

MOSMAN, J.,

On December 8, 2009, Magistrate Judge Jelderks issued Findings and Recommendation ("F&R") (#59) in the above-captioned case recommending that I GRANT plaintiff's Motion for Attorney Fees and Costs (#48) in the amount of \$35,183.75. No objection to the F&R was filed.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file

written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Jelderks's recommendation, and I ADOPT the F&R (#59) as my own opinion. Plaintiff's Motion for Attorney Fees and Costs (#48) is GRANTED, and plaintiff should recover attorney fees and costs in the amount of \$35,183.75.

IT IS SO ORDERED.

DATED this 12th day of January, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court